

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE**

45 Fremont Street
San Francisco, CA 94105

**ADOPTION OF REGULATION
ON AN EMERGENCY BASIS PURSUANT TO
CALIFORNIA GOVERNMENT CODE SECTION 11346.1(b)**

Self-Service Storage Insurance Agent License

ER04041538

June 21, 2006

A. Emergency Regulation Text/Form 400

Attached

B. Agency Express Finding of Emergency

California Insurance Commissioner John Garamendi (“the Commissioner”) hereby adopts on an emergency basis sections 2194.9 – 2194.17 of Article 11 of Subchapter 1 of Chapter 5 of Title 10 of the California Code of Regulations (CCR), regarding the requirements for a new category of production agency license, the Self-Service Storage Insurance Agent License. Pursuant to California Government Code section 11346.1(b) and California Insurance Code (“Insurance Code”) section 1758.792 (Chapter 428, Statutes of 2004), the Commissioner has determined that the adoption of this regulation on an emergency basis is necessary for the immediate preservation of the public peace, health, safety and general welfare of the people of the State of California.

Existing law makes it a crime to act or assume to act in a capacity for which a production agency license is required without having such a license. Assembly Bill 2520 (Vargas) of 2004 (Chapter 428, Statutes of 2004), effective January 1, 2005, added Article 16.3, commencing with section 1758.7, to Chapter 5 of Part 2 of Division 1 of the Insurance Code, creating a new category of production agency license and expanding the scope of activities for which a license is required. Thus, this bill also expands the scope of an existing crime. Emergency regulations are necessary to advise applicants of the requirements for the Self-Service Storage Insurance Agent License and to establish the guidelines and fees necessary for the immediate acceptance of applications by the Department of Insurance (“Department”).

C. Agency Statement of Specific Facts Showing the Need for Immediate Action

The purpose of this emergency regulation is to implement, interpret, and make specific the provisions of Insurance Code, Division 1, Part 2, Chapter 5, sections 1758.7 through 1758.792.

Assembly Bill 2520 (Vargas) of 2004 (Chapter 428, Statutes of 2004), effective January 1, 2005, requires that the Commissioner license self-service storage insurance agents. Such a license is available to a self-service storage facility, as defined, authorizing the person or organization to

sell or offer to its customers insurance limited to particular types of insurance and only in connection with, and incidental to, self-service storage rental agreements. The particular types of insurance include hazard insurance coverage to renters for the loss of, or damage to, tangible personal property in storage or in transit during the rental period, or any other coverage the Commissioner may approve as meaningful and appropriate in connection with the rental of storage space. The new statute also imposes certain requirements on the licensees and endorsees with respect to training and other related matters. This emergency regulation creates requisite forms and filing requirements.

This presently proposed emergency regulation is intended to comply with the operational mandate as articulated in Insurance Code section 1758.792.

D. Authority and Reference Citations

The Insurance Commissioner proposes the adoption of this emergency regulation pursuant to the authority vested in him by the California State Legislature in Assembly Bill 2520 (Chapter 428, Statutes of 2004), as specifically codified in Insurance Code sections 1758.7 through 1758.792. The purpose of this emergency regulation is to implement, interpret, and make specific the provisions of Insurance Code, Division 1, Part 2, Chapter 5, sections 1758.7 through 1758.792.

E. Informative Digest

This emergency regulation implements a statutory mandate that created a new category of insurance production agency license, the Self-Service Storage Insurance Agent License. Existing law makes it a crime to act or assume to act in a capacity for which a production agency license is required without having such a license. Emergency regulations are necessary to advise applicants of the requirements for the Self-Service Storage Insurance Agent License and to establish the guidelines and fees necessary for the immediate acceptance of applications by the Department of Insurance (“Department”).

The specific purpose of each provision of the emergency regulation and the rationale for the determination that each provision is reasonably necessary to carry out the purpose for which it is proposed are set forth below.

DEFINITIONS

These emergency regulations provide specific definitions for the application of the terms used in Department of Insurance licensing applications that are in general use and that now have the added category of “Self-Service Storage Agent.” The definitions included in the regulation -- “authorized insurer,” “franchise,” and “organization” -- supplement definitions articulated in AB 2520 and codified in Insurance Code section 1758.791. The regulation definitions provide applicants the means to distinguish the necessary licensing application forms and the scope of the licensing.

APPLICATIONS

This section sets forth the requirement of licensing for persons or entities intending to act as a self-service storage insurance agent. The provisions relate to and are consistent with already established procedures for other licensing categories.

FEES

The fees are currently set at \$250 for both the initial license application and the renewal. Fees must be paid at time of filing and are necessary to offset the administrative expense to the Department of Insurance to implement and maintain this new category of licensing as required under AB 2520. Costs charged by the Department of Insurance for any enforcement action or investigations shall be paid by the licensee, in addition to the application or renewal filing fee.

DISCLOSURE

This section further clarifies the requirements of Insurance Code section 1758.76 concerning conditions of sale and written information that must be provided to the prospective customer. Brochures and other materials must indicate full identification of the licensee doing business, including an approved true or fictitious name, location of the transaction, and the name of the insurer providing the insurance being offered. All disclosures required by section 1758.76 must be written clearly and conspicuously. In addition to material contract terms, costs, contact information of the licensee, the transactor must also provide the Department of Insurance toll-free consumer hotline.

TRAINING

Department of Insurance licensees are required to comply with a continuing education requirement. This section and Attachment E outline the required training elements for training as a Self-Service Storage Insurance Agent licensee or an endorsee. Further, the Department of Insurance generally requires the applicant to submit of training materials for prior approval. This section specifies an exemption for training materials that have been developed by a licensed fire and casualty broker-agent and previously approved by the Department of Insurance.

RECORDS

This section clarifies Insurance Code section 1758.72 as it pertains to record maintenance and retention, including the place where records shall be kept. This section further speaks to production of records for examination by the Commissioner.

FORMS

This section enumerates the forms required for the application process and the availability of such forms through the Department of Insurance:

(a) The written application for licensure shall be made on Form 441-9 for individuals and on Form 441-11 for organizations.

(b) The annual list of authorized employees or endorsees shall be made on Form Lic. SSA 1. The list shall be maintained in a format capable of transmission to the Commissioner electronically and in hard copy or diskette, however requested by the Commissioner pursuant to Section 2194.6(c) above. The electronic version shall be transmitted in commercial word-processing or spreadsheet form. When requested, the list shall be updated to include endorsees

newly authorized up to thirty (30) days before the mailing date of the request, and shall include the dates upon which each endorsee's authorization began and, if relevant, terminated. It shall then be transmitted as an attachment to e-mail or by regular mail in hard copy or diskette, as requested. The appropriate e-mail and regular mailing addresses shall be posted by the Department on its website at <http://www.insurance.ca.gov>.

(c) The insurer certification shall be made on Form Lic. SSA 2.

(d) Training materials submitted to the Commissioner shall contain all of the elements set forth in Form Lic. SSA 3.

PROCEDURES

The application review guidelines and licensing time frames are set forth in this section. The criteria applies to procedures employed by the Commissioner in considering and issuing licenses, including:

(1) If the application is deficient, the Commissioner shall, within twenty-one (21) days of receipt of the license application, inform the applicant, in writing, that the application is deficient and what specific information is required for completion. Absent notice of a deficiency, the application is deemed complete at the date of filing.

(2) The Commissioner shall, within thirty (30) calendar days of filing of a completed application, reach a decision whether to issue or deny a license, and shall notify the applicant of the decision. If the Commissioner has decided to deny the application, the reason(s) therefor shall be set forth in the notification.

The periods set forth above shall be tolled in the event the application requires legal action by the Commissioner.

F. Specific Agency Statutory Requirements

In compliance with Insurance Code section 12921.7, on or about June 12, 2006, notice of proposed emergency action was mailed to every person, group, or association who has previously filed a request for notice for regulatory action with the Commissioner.

Notice was previously issued on July 28, 2005. The subsequent rulemaking file submitted to the Office of Administrative Law on September 30, 2005 for adoption on an emergency basis was withdrawn on October 11, 2005 pending further Department of Insurance internal review of the regulation requirements.

G. Local Mandate Determination

The Commissioner has determined that the regulatory action imposed herein will result in no program mandates on local agencies or school districts.

H. Fiscal Impact Estimate/Form 399

Attached